

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LAVATO SMITH,)	
)	
Plaintiff,)	
)	Civil Action File No.:
v.)	
)	
VIGNESH THEETHARAPPAN and)	
DOORDASH, INC.,)	
)	
Defendants.)	
_____)	

NOTICE OF REMOVAL

COMES NOW defendant DoorDash, Inc. ("DoorDash") and files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, respectfully showing this Court the following:

1.

On September 29, 2021, plaintiff Lavato Smith filed suit against Defendants DoorDash and Vignesh Theetharappan in the State Court of Fulton County, State of Georgia. A copy of the complaint and summons is attached hereto as Exhibit "A."

2.

In his Complaint, Plaintiff seeks to recover for personal injuries allegedly sustained as a result of a motor vehicle accident that occurred on or about December 3, 2020 on Northside Circle NW in Atlanta, Fulton County, Georgia.

3.

Plaintiff's complaint alleges he "suffered bodily injuries, emotional injuries, and medical expenses" and "will incur future special and general damages in amounts to be proven at trial" (Exhibit A, Complaint ¶¶ 14-15). Plaintiff has also asserted claims for punitive damages pursuant to O.C.G.A. § 51-12-5.1 (Exhibit A, Complaint ¶ 30). Although Plaintiff's complaint does not allege a specific amount of damages, Plaintiff sent Defendants a settlement demand before filing suit in which he alleged special damages totaling \$44,965.09. A true and correct copy of Plaintiff's pre-suit settlement demand is attached hereto as Exhibit "B."

4.

Accordingly, it is fair and reasonable to conclude that the amount in controversy exceeds \$75,000 based on "reasonable deductions, reasonable inferences, [and] other reasonable extrapolations." *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 754 (11th Cir. 2010).

5.

Under 28 U.S.C. § 1446(c), a defendant may file a notice of removal within thirty days of receipt through service or otherwise of an amended, pleading, motion, order, or other paper from which it first may be ascertained that the case is or has become removable. 28 U.S.C. § 1446(b)(3).

6.

“Other paper” is defined as any other document that is part and parcel of the State Court proceedings and has its origin and existence by virtue of the State Court processes. In general, to constitute “other paper,” the paper must result from the voluntary act of plaintiff to give the defendant notice of the circumstances that support federal jurisdiction. Items that have been held by courts to constitute “other paper” include correspondence between parties identifying damages and losses suffered by plaintiff, depositions, discovery responses, settlement agreements, and offers of judgment. *Cameron v. Teeberry Logistics, LLC*, 920 F. Supp. 2d 1309 (N.D. Ga. 2013); *Bramlett v. Majric*, 2012 U.S. Dist. LEXIS 133925 (N.D. Ga. 2012); *Golden Apple Management Co. v. GEAC Computers, Inc.*, 990 F. Supp. 1364, 1368 (M.D. Ala. 1997); *Wilson v. GMC*, 888 F. 2d 779 (11th Cir. 1989).

7.

The thirty-day removal period does not begin to run until a defendant has

been formally served with process. *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347 (1999).

8.

Defendant DoorDash was served with process on October 1, 2021.

9.

Defendant's Notice of Removal is timely and the matter and amount in controversy requirement of 28 U.S.C. § 1332 is satisfied.

10.

According to Plaintiff's complaint, he is a resident and citizen of the State of Georgia. (Exhibit A, Complaint ¶ 1).

11.

Upon information and belief, Defendant Vignesh Theetharappan is a natural person residing at 351 West 48th Street, Apt. 3A, New York, NY 10036, as shown by the Affidavit of Personal Service upon Defendant Vignesh Theetharappan, a copy of which is attached as Exhibit "C". Defendant Vignesh Theetharappan's citizenship is therefore established in the State of New York for diversity of citizenship purposes. *See* 28 U.S.C. § 1332.

12.

Defendant DoorDash is a Delaware corporation with a principal place of business in San Francisco, California, as shown by the entity's corporate entry

with the Delaware Secretary of State, a copy of which is attached as Exhibit “D”. Defendant DoorDash’s citizenship is therefore established in the State of Delaware and State of California for diversity of citizenship purposes. *See* 28 U.S.C. § 1332(c) (providing that a corporation is deemed to be a citizen of every state in which it was incorporated, as well as the state in which it maintains its principal place of business).

13.

This Court has diversity jurisdiction over the suit under 28 U.S.C. § 1332 because (1) Plaintiff and Defendants are citizens of different states; and (2) the amount in controversy exceeds \$75,000, exclusive of interests and costs.

13.

Attached hereto as Exhibit “E” and made a part hereof by reference is a true copy of the Notice of Removal filed by Defendant DoorDash in the State Court of Fulton County, Georgia.

14.

Attached hereto as Exhibit “F” are copies of all pleadings filed in the State Court of Fulton County, Georgia.

WHEREFORE, Defendant DoorDash prays that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This the 1st day of November, 2021.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Lucy Aquino

Terry O. Brantley
Georgia Bar No. 078361
Lucy Aquino
Georgia Bar No. 114433
Attorneys for DoorDash, Inc.

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CERTIFICATION PURSUANT TO L.R. 7.1D

Pursuant to Northern District of Georgia Local Rule 5.1C, the undersigned counsel for Defendant hereby certifies that the above and foregoing submission is a computer document prepared in Book Antiqua (13 point) font and in accordance with Local Rule 5.1C.

This the 1st day of November, 2021.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Lucy Aquino

Terry O. Brantley
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Lucy Aquino
Georgia Bar No. 114433
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CERTIFICATE

Defendant DoorDash in the case of Lavato Smith v. Vignesh Theetharappan and DoorDash, Inc., Civil Action File No. 21EV005821 in the State Court of Fulton County, Georgia, have given notice of the filing of the foregoing notice of removal to Plaintiff Lavato Smith, and his attorneys, by electronically serving a copy of the notice to Norman M. Sawyer, Jr., Esq., SAWYER INJURY LAW, LLC, 49C Lenox Pointe NE, Atlanta, GA 30324 (norm@sawyerinjurylaw.com) and to David M. Glustrom, Esq., GLUSTROM LAW, LLC, 225 Peachtree Street NE, Suite 1945, Atlanta, GA 30303 (david@glustromlaw.com), and have filed a copy of the Notice of Removal with the Clerk of the State Court of Fulton County, Georgia, in accordance with the provisions of Title 28, United States Code, § 1446, Judiciary and Judicial Procedure, as amended. The undersigned, Lucy Aquino, attorney for Defendant DoorDash, hereby certifies to the truthfulness and correctness of the above statement.

This 1st day of November, 2021.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Lucy Aquino

Terry O. Brantley
Georgia Bar No. 078361
Lucy Aquino
Georgia Bar No. 114433
Attorneys for DoorDash, Inc.

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CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that she has filed the foregoing Notice of Removal with the Clerk of Court using the CM/ECF-GA e-file and serve system which will send email notification of said filing to the following attorneys of record:

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This 1st day of November, 2021.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/ Lucy Aquino
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Georgia Bar No. 114433
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